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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-----------------------|---------------------|------------------|
| 10/716,836      | 11/19/2003  | L. William Zahner III | 34375               | 7070             |

7590 01/25/2006  
Hovey Williams LLP  
Suite 400  
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Kansas City, MO 64108

EXAMINER

A, PHI DIEU TRAN

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3637

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                           |  |
|------------------------------|--------------------------------------|-------------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/716,836 | <b>Applicant(s)</b><br>ZAHNER, L. WILLIAM |  |
|                              | <b>Examiner</b><br>Phi D. A          | <b>Art Unit</b><br>3637                   |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

***Claim Objections***

1. Claim 24 is objected to because of the following informalities: line 2 “ a least a portion” is improper. Should it be “ at least a portion”?

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-8, 10-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Kemp (2841255).

Kemp (figure 4) shows a panel attachment system comprising a plurality of covering panels (26) each presenting a flange and a lip (figure 4, the slanted part of part 16), the flange including at least one locking member protruding perpendicularly therefrom, the lip is operable for mating engagement with a corresponding lip of an adjacent panel (the end of the lips are touching each other and hence mating as shown in figure 4), at least one retaining member (36, 34, 32) having a slot (the space between parts 36) for receiving the flanges and interlocking the locking member in order to secure the flanges to the retaining member, the retaining member including a drainage channel (the space between parts 34) positioned below the slot, a mounting structure (46) for securing the retaining member to a surface, the retaining member is secured to the mounting structure by sliding the member into the mounting structure, the slot substantially

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extends along the retaining member's entire length, a plurality of retaining members (figure 1), each retaining member being secured to a corresponding mounting structure, the covering panels including a lip for mating engagement with a corresponding lip of an adjacent panel (figure 4, the slanted part of part 16), the slot is formed between walls rising from a base of the retaining member, the locking members protruding from an interior side of the longitudinal flanges, the locking members are integral with the longitudinal flanges, the locking members are sloped to assist in interlocking with the retaining member, the retaining member is secured to the mounting structure by interlocking the retaining member and the mounting structure by sliding, each panel presenting a pair of opposed longitudinal flanges and a pair of lips, each retaining member having a pair of opposed side walls (34), a top wall (44) connected to each side wall, an angled interior wall (36) connected to the top wall, the angled interior walls extend toward each other to form a slot therebetween which substantially extends along the retaining member's entire length, a pair of opposed raised lips (35) formed on a base of the retaining member for securing and aligning the retaining member, the mounting structures each having a pair of opposed groove (the receive part 32), at least one mounting apertures (for fastener 70) to allow the mounting structure to be secured to a surface, the retaining member (36, 34, 32) including a top wall (32) operable to support at least a portion of one of the covering panels (inherently so as the member is supporting the panel, and the claim language does not require that the top wall and any portion of the panel directly touching each other).

### ***Response to Arguments***

3. Applicant's arguments filed 11/10/05 to claims 1-8, 10-23 have been fully considered but they are not persuasive.

Applicant states that Kemp does not show the panel having a mating lip, examiner respectfully disagrees. As clarified above and per applicant's amendment, Kemp shows each panel having a lip (the slanted portion) and the lips of panels touching each other. Claimed limitation also does not require that the lip be perpendicular to the flange, and the claim is reasonably broadly interpreted as claimed. Kemp thus shows the claimed limitation. The argument is thus moot.

With respect to "panel having a flange with a plurality of locking members", examiner respectfully points out that the reference shows the limitations as claimed. Kemp (figure 4) shows locking members that form the bulging part which lock the panel to the retaining member. The bulging part is made of two members. The claimed language does not require that the locking members be discrete or separated from each other. Applicant's disclosure in figure 2 shows the locking members 32 formed by triangular parts extending outwardly from the flange. The interpretation of the bulging member having locking members protruding perpendicularly from the flange is thus consistent with applicant's disclosure and reads on applicant's claimed limitations. With respect to Kemp's locking members being continuous, the argument is moot as applicant's claimed limitations does not set forth that the locking members cannot be continuous. The argument is thus moot.

4. With respect to "drainage channel", applicant states that Kemp does not show the claimed limitations because Kemp's structure is used differently, examiner respectfully disagrees. As set forth above in the rejection, the structural limitations as claimed are met by the reference. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed

invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. The structure disclosed by Kemp inherently is capable of performing the intended use. The argument is thus moot.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different panel assembly designs.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phi Dieu Tran A

PA

1/19/06

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SUPERVISORY PATENT EXAMINER  
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